

AMENDED IN SENATE MARCH 14, 2005

AMENDED IN SENATE FEBRUARY 2, 2005

**SENATE BILL**

**No. 14**

**Introduced by Senators Campbell and Runner**

December 6, 2004

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An act to amend Sections 19136 and 19142 of, to add Section 19136.12 to, and to repeal Sections 19136.3, 19136.4, ~~19136.5~~, 19136.6, 19136.8, and 19136.11 of, the Revenue Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Campbell. Income tax: underpayment penalty relief.

The Personal Income Tax Law and the Corporation Tax Law impose a penalty on a taxpayer who underpays an estimated income tax. Those laws also specify that a penalty may not be imposed for an underpayment in specified taxable years if the underpayment was created or increased by specified changes in law.

This bill would preclude a penalty from being imposed under these laws for an underpayment in a specified taxable year or in any taxable year thereafter if the underpayment was created or increased by a change in law in that same taxable year, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1~~

*SECTION 1.* Section 19136 of the Revenue and Taxation Code is amended to read:

19136. (a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, shall apply, except as otherwise provided.

(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.

(c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, does not apply.

(2) No addition to the tax shall be imposed under this section if the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than two hundred dollars (\$200), except in the case of a separate return filed by a married person the amount shall be less than one hundred dollars (\$100).

(d) Section 6654(f) of the Internal Revenue Code does not apply and for purposes of this section the term “tax” means the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under subdivision (a) of Section 19002.

(f) This section shall apply to a nonresident individual.

(g) (1) No addition to tax shall be imposed under this section to the extent that the underpayment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment.

(2) Notwithstanding Section 18415, this section applies to penalties imposed under this section on and after January 1, 2006.

SEC. 2. Section 19136.3 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 19136.4 of the Revenue and Taxation Code is repealed.

~~SEC. 4. Section 19136.5 of the Revenue and Taxation Code is repealed.~~

~~SEC. 5.~~

SEC. 4. Section 19136.6 of the Revenue and Taxation Code is repealed.

~~SEC. 6.~~

SEC. 5. Section 19136.8 of the Revenue and Taxation Code, as added by Section 30 of Chapter 34 of the Statutes of 2002, is repealed.

~~SEC. 7.~~

SEC. 6. Section 19136.8 of the Revenue and Taxation Code, as amended by Section 6 of Chapter 488 of the Statutes of 2002, is repealed.

~~SEC. 8.~~

SEC. 7. Section 19136.11 of the Revenue and Taxation Code is repealed.

~~SEC. 9.~~

SEC. 8. Section 19136.12 is added to the Revenue and Taxation Code, to read:

19136.12. (a) No addition to tax shall be made under Section 19136 for any period before April 15, 2005, with respect to any underpayment of an installment for the 2004 taxable year, to the extent that the underpayment was created or increased by the amendment of Section 17052.2 by Chapter 226 of the Statutes of 2004.

(b) The Franchise Tax Board shall implement this section in a reasonable manner.

~~SEC. 10.~~

SEC. 9. Section 19142 of the Revenue and Taxation Code is amended to read:

19142. (a) Except as provided in Sections 19147 and 19148 and subdivision (b), in the case of any underpayment of tax imposed under Part 11 (commencing with Section 23001) there

1 shall be added to the tax for the taxable year an amount  
2 determined at the rate established under Section 19521 on the  
3 amount of the underpayment for the period of the underpayment.

4 (b) (1) No addition to tax shall be imposed under this section  
5 to the extent that the underpayment was created or increased by  
6 any provision of law that is chaptered during and operative for  
7 the taxable year of the underpayment.

8 (2) Notwithstanding Section 18415, this subdivision applies to  
9 penalties imposed on and after January 1, 2006.

10 ~~SEC. 11.~~

11 *SEC. 10.* This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety  
13 within the meaning of Article IV of the Constitution and shall go  
14 into immediate effect. The facts constituting the necessity are:

15 In order to provide relief to certain taxpayers that otherwise  
16 would be unreasonably penalized, it is necessary that this act take  
17 effect immediately.